

E4



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,461	06/23/2003	Robert Phillip Griffiths	9764-15US (12448)	7611

570 7590 08/04/2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.  
ONE COMMERCE SQUARE  
2005 MARKET STREET, SUITE 2200  
PHILADELPHIA, PA 19103

EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/601,461	<b>Applicant(s)</b> GRIFFITHS ET AL.	
	<b>Examiner</b> Jerry Redman	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
 4a) Of the above claim(s) 13-22 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-12 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☒ All    b) ☐ Some \*    c) ☐ None of:  
 1. ☒ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3634

The applicant's claim identifiers are incorrect. Claims 13-22 should state ~~—(withdrawn)—~~ and not "previously presented" and claims 23 should be addressed as ~~—cancelled—~~.

This application contains claims 13-22 drawn to an invention nonelected with without traverse in Paper dated 11/24/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The status of the claims is as follows:

Claims withdrawn from consideration: 13-22

Claim(s) cancelled: 23

Claims elected and herein addressed below: 1-12.

The abstract is objected to as having "means" phraseology, which fails to positively describe the applicant's invention.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Givoni (6,499,255). Givoni ('255) discloses a shutter assembly having a plurality of modular units including an elongate member unit stackable (12 and 64) and engaging identical adjacent elongate member unit (12' and 64') attached together (fasteners having heads as seen in Figure 15 and holes as seen in Figure 16 which form a male/female connection or a connection having apertures as recited in claim 12) as joinable half components forming a housing, a support (72 and 72'), a shutter blade (6), a compact boss having male members (62C, 62B, 62A-having a head member with a gear 58), and a motorized turning means (8, a motor which has environmental sensors, column 7, lines 38-43) wherein upon sensing the turning means rotates to drive the elongate member unit (64 and 64') which moves linearly and thereby drivingly rotating each shutter blade (6) between two positions.

Claims 1-3, and 5-12 are rejected under 35 U.S.C. 102(b) as being anticipated by EP patent No. 119,369 to Balsamo. As shown in Figures 13 and 14, EP patent No. 119,369 to Balsamo discloses a shutter assembly having a plurality of modular elongate member units (11) comprising a support (11a1) for a compact boss (12) adapted to be engaged to a shutter blade (2) whereby rotation of the compact boss (12) causes rotation of the shutter blade (2) wherein each elongate member unit (11) is stackable and engageable (13a and 13b) to identical elongate member units to form an assembly elongate member. EP patent No. 119,369 to Balsamo further discloses the elongate member unit having a pair (11a) of separately formed and joinable half components,

Art Unit: 3634

which form a housing. EP patent No. 119,369 to Balsamo still further discloses snap engagement means (13a and 13b) in the form of male/female and/or "snap locators".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 11 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Givoni ('255) in view of EP patent No. 119,369 to Balsamo. All of the elements of the instant invention are discussed in detail above except providing the elongate member unit having a pair of separately formed and joinable half components. As shown in Figures 13 and 14, EP patent No. 119,369 to Balsamo discloses a shutter assembly having a pair of separately formed and joinable half components which snap fit together. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shutter assembly of Givoni ('255) with separable half components as taught by EP patent No. 119,369 to Balsamo since separable half components allows the shutter assembly to be mounted together to form a working shutter as well as to be adjustable along it's length.

Claim 4 is further rejected under 35 U.S.C. 103(a) as being unpatentable over EP patent No. 119,369 to Balsamo in view of Givoni ('255). All of the elements of the instant invention are discussed in detail above except providing a motorized turning

Art Unit: 3634

means having sensors. Givoni ('255) discloses and a motorized turning means (8, a motor which has environmental sensors, column 7, lines 38-43) having sensors. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Balsamo with a motorized turning means having sensors as taught by Givoni ('255) since a motorized turning means having sensors allows the shutter assembly to be automatically opened and closed upon set and desired conditions.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Blachley discloses a shutter assembly having stackable elements similar to that of the applicant's invention.

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3634

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



**Jerry Redman**  
**Primary Examiner**